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 9 MARK POPE

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 11  
 12 UNITED STATES DISTRICT COURT  
 13  
 14 NORTHERN DISTRICT OF CALIFORNIA

15  
 16 Pope International,  
 17 Plaintiff,  
 18 vs.  
 19 Patricia Crowell,  
 20 Defendant.

CASE NO. C07 05930 JW

**MARK POPE'S ANSWER TO FIRST  
 AMENDED COUNTERCLAIM**

21  
 22 Patricia Crowell, an individual  
 23 Counterclaimant  
 24 vs.  
 25 Pope International, a California  
 26 corporation,  
 27 Counterdefendant.

21  
 22 Patricia Crowell, an individual  
 23 Third Party Plaintiff,  
 24 vs.  
 25 Mark Steven Pope, aka Mark S. Pope and  
 26 aka Mark Pope, individually and as he does  
 27 business under the trade name and style of  
 Bounty Hunter, Bounty Hunter Rare Wine,  
 and/or Bounty Hunter Rare Wine and  
 Provisions,  
 Third Party Defendant.

1 Third Party Defendant, Mark Pope, ("Pope"), by his undersigned attorneys, as and for his  
2 Answer to the First Amended Counterclaim, alleges as follows:

- 3 1. Answering Paragraph 1 of the First Amended Counterclaim, Pope denies the  
4 allegations contained therein.
- 5 2. Answering Paragraph 2 of the First Amended Counterclaim, the nature of the relief  
6 sought by Defendant and Counterclaimant, Patricia Crowell ("Crowell") as set forth  
7 in Paragraph 2 speaks for itself and Pope denies that Crowell is entitled to the relief  
8 requested.
- 9 3. Answering Paragraph 3 of the First Amended Counterclaim, Pope denies the  
10 allegations contained therein.
- 11 4. Answering Paragraph 4 of the First Amended Counterclaim, Pope admits the  
12 contents therein.
- 13 5. Answering Paragraph 5 of the First Amended Counterclaim, Pope denies the  
14 allegations contained therein.
- 15 6. Answering Paragraph 6 of the First Amended Counterclaim, Pope denies the  
16 allegations contained therein.
- 17 7. Answering Paragraph 7 of the First Amended Counterclaim, Pope denies the  
18 allegations contained therein.
- 19 8. Answering Paragraph 8 of the First Amended Counterclaim, Pope is without  
20 knowledge as to the allegations contained therein and on such basis denies such  
21 allegations.
- 22 9. Answering Paragraph 9 of the First Amended Counterclaim, Pope admits the  
23 allegations contained therein.
- 24 10. Answering Paragraph 10 of the First Amended Counterclaim, Pope denies that he is  
25 an individual doing business as Bounty Hunter, Bounty Hunter Rare Wines, and/or  
26 Bounty Hunter Rare Wines and Provisions, and otherwise admits the remaining  
27 allegations contained therein.

11. Answering Paragraph 11 of the First Amended Counterclaim, Paragraph 11 speaks  
2 for itself and requires neither an admission or denial.
12. Answering Paragraph 12 of the First Amended Counterclaim, based upon  
4 information and belief as reflected by the records of the U.S. Patent and Trademark  
5 Office (USPTO), Pope admits that Crowell filed the alleged trademark application,  
6 but denies that the application was to register a trade name.
13. Answering Paragraph 13 of the First Amended Counterclaim, Pope admits that  
8 Wine Scout filed the service mark application Serial No. 77199035 and denies the  
9 remaining allegations contained therein.
14. Answering Paragraph 14 of the First Amended Counterclaim, Pope denies the  
11 allegations contained therein.
15. Answering Paragraph 15 of the First Amended Counterclaim, Pope admits, upon  
13 information and belief based upon review of the USPTO database, that Crowell's  
14 trademark/service mark application was approved for publication on January 23,  
15 2008, admits that the USPTO has suspended Wine Scout's service mark application  
16 for WINE SCOUT, and denies the remaining allegations contained therein.
17. Answering Paragraph 16 of the First Amended Counterclaim, Pope is without  
18 sufficient information to admit or deny the allegation contained therein and on such  
19 basis denies the allegation.
20. Answering Paragraph 17 of the First Amended Counterclaim, Pope admits the  
21 stated content of the TMEP, but otherwise denies the remaining allegations  
22 contained therein.
23. Answering Paragraph 18 of the First Amended Counterclaim, Pope denies the  
24 allegations contained therein to the extent the allegations are based upon a  
25 hypothetical rather than factual situation.
26. Answering Paragraph 19 of the First Amended Counterclaim, Pope admits the  
27 allegations of the Complaint filed by Wine Scout as stated therein and otherwise  
denies all remaining allegations included in Paragraph 19.

7       21. Answering Paragraph 21 of the First Amended Counterclaim, Pope admits the  
8                 services description of its service mark application for WINE SCOUT, is without  
9                 knowledge as to all of the goods and services under which Crowell uses THE  
10                 WINE SCOUT mark, and on such basis denies the allegations in the second  
11                 sentence of the paragraph describing the services with which Crowell does not use  
12                 the mark, and denies all remaining allegations.

13 22. Answering Paragraph 22 of the First Amended Counterclaim, Pope admits that  
14 Wine Scout uses and has used the trade name Wine Scout, is without knowledge as  
15 to all business activities with which Crowell uses and has used The Wine Scout  
16 name and mark, and on such basis denies the allegations in the second sentence of  
17 the paragraph describing the business activities with which Crowell does not use the  
18 name and mark, and denies all remaining allegations.

19       23. Answering Paragraph 23 of the First Amended Counterclaim, Pope admits to the  
20              accuracy of the cited content from the Wine Scout web site, is without knowledge  
21              as to all business activities with which Crowell uses and has used THE WINE  
22              SCOUT name and mark, and on such basis denies the allegations in the second  
23              sentence of the paragraph describing the business activities with which Crowell  
24              does not use the name and mark, and denies all remaining allegations.



## AFFIRMATIVE DEFENSES

8       1. Crowell has failed to state a claim upon which relief can be granted.

9       2. There is no case or controversy between Pope and Crowell.

10      3. There is no underlying coercive claim which Pope may exert against Crowell

## PRAYER FOR RELIEF

WHEREFORE, Pope demands judgment dismissing the Counterclaim, awarding it the costs, expenses, and attorneys' fees it incurs in defending this matter, and awarding it such other relief as the Court deems just and proper.

Dated: 4/24/08

Respectfully submitted,

## DICKENSON, PEATMAN & FOGARTY

  
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